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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**
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15 IRWIN UNION BANK AND TRUST
COMPANY AND IRWIN HOME EQUITY
16 CORPORATION,

17 Plaintiffs,

18 v.

19 FREEDOM MORTGAGE COMPANY,

20 Defendants.
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CASE NO. 4:08-cv-00472-PJH

**STIPULATION AND ORDER TO
CONTINUE CMC DATE**

Action filed: January 22, 2008

Assigned to The Hon. Phyllis J. Hamilton
Courtroom: 3

1 WHEREAS, on April 30, 2008, the Court issued an Order granting defendant Freedom
2 Mortgage Corporation's motion to compel arbitration and staying this action pending completion
3 of arbitration. Thus, Freedom was not required to respond to the complaint filed by Irwin Union
4 Bank and Trust Company ("IUBT") and Irwin Home Equity Corporation ("IHE").

5 WHEREAS, the parties began to pursue the arbitration Freedom filed in March 2008
6 before the National Arbitration Forum. Due to subsequent events detailed below, the arbitration
7 has not been completed, and this action remains stayed.

8 WHEREAS, the parties commenced settlement discussions and attended mediation on July
9 9, 2009. A subsequent mediation session was scheduled for September 30, 2009.

10 WHEREAS, IHE reports that: on September 18, 2009, banking regulators closed IUBT
11 and IUBT's bank charter was terminated. The FDIC was appointed as receiver. Irwin Financial
12 Corporation—the parent and indirect parent of IUBT and IHE, respectively—filed for bankruptcy
13 under Chapter 7 of the U.S. Bankruptcy Code on September 18, 2009.

14 WHEREAS, IHE further reports that: the FDIC as receiver for IUBT entered into a
15 purchase and assumption agreement with third party First Financial Bank, N.A., located in
16 Hamilton, Ohio, to assume the deposits and acquire certain assets and other liabilities of IUBT,
17 and multiple subsidiary entities owned by IUBT, effective as of September 18, 2009. IHE and
18 Irwin Mortgage Corporation ("IMC"), former subsidiaries of IUBT, are now subsidiaries of First
19 Financial Bank.

20 WHEREAS, IHE and Freedom desire to reach a global settlement of all disputes and
21 claims, including the claims in this action, the action entitled *Freedom Mort. Corp. v. Irwin*
22 *Financial Corp. et al.*, Case No. 3:09-cv-01399-MEJ (N.D. Cal.), and the arbitration. IHE reports
23 that its counsel has been in discussions with third party FDIC as receiver for IUBT and with third
24 party IMC regarding the proposed global settlement.

25 WHEREAS, on July 23, 2010, at the Court's request, IHE and Freedom filed a Status
26 Report (Doc. No. 34) notifying the Court of the foregoing developments.

27 WHEREAS, on August 6, 2010, the clerk entered a notice (Doc. No. 35) setting a case
28 management conference for January 20, 2011 and directing the parties to file a joint case

1 management conference statement on January 13, 2011.

2 WHEREAS, IHE reports that: IHE and the FDIC as receiver for IUBT are still in the
3 process of investigating who, under the purchase and assumption agreement, is the current owner
4 of the former IUBT's assets and liabilities at issue in this action.

5 WHEREAS, IHE and Freedom believe that good cause exists for a continuance of the
6 foregoing deadlines and Initial Case Management Conference given the stay, and their current
7 understanding of the settlement prospects.

8 WHEREAS, in-house FDIC counsel for the receiver has reviewed this stipulation and
9 concurs in its filing; and

10 NOW, THEREFORE, IHE and Freedom, by and through their undersigned counsel of
11 record, hereby agree and stipulate to the following:

12 1. The Initial Case Management Conference currently set for January 20, 2011 is
13 hereby adjourned *sine die*.

14 2. IHE and Freedom respectfully request leave to file a further status report on or
15 before June 24, 2011.

16 DATED: January 13, 2011

SOLOMON WARD SEIDENWURM & SMITH, LLP

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18 By: /s/ Jenny L. Dixon

JENNY L. DIXON

19 E-mail jdixon@swsslaw.com

20 Attorneys for Plaintiff Irwin Home Equity
Corporation

21 DATED: January 13, 2011

BUTY & CURLIANO

22
23 By: /s/ Jason C. Curliano

24 JASON C. CURLIANO

25 ZUKERMAN GORE BRANDEIS & CROSSMAN,
LLP

26 JOHN K. CROSSMAN

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28 Attorneys for Defendant Freedom Mortgage
Corporation

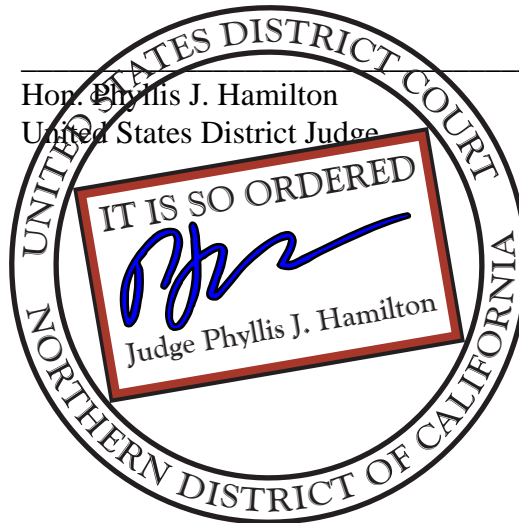
ORDER

Based upon the above stipulation of the parties, and for good cause appearing therefor, IT IS HEREBY ORDERED THAT:

1. The Initial Case Management Conference currently set for January 20, 2011 is hereby adjourned *sine die*.
2. IHE and Freedom will file a further status report on or before June 24, 2011.

DATED: January 18 ____, 2011

Hon. Phyllis J. Hamilton
United States District Judge



ATTESTATION PURSUANT TO GENERAL ORDER 45

I, Jenny L. Dixon, attest that concurrence in the filing of this document has been obtained from Jason C. Curliano. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 13th day of January, 2011 at San Diego, California.

By: /s/ Jenny L. Dixon
JENNY L. DIXON

Attorneys for Plaintiff Irwin Home Equity

CERTIFICATE OF SERVICE

I caused the **STIPULATION AND ORDER TO CONTINUE CMC DATE** to be served
in the following manner:

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

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By: /s/ Jenny L. Dixon
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